THE HON'BLE SMT JUSTICE T.MEENA KUMARI

&

THE HON'BLE SRI JUSTICE G.CHANDRAIAH

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WRIT PETITION NO.18901 OF 2007

Dated: 27.09.2007

Between:

P. Vidya Latha

..Petitioner

And

1. The Government of A.P., rep., by its
   Secretary, Department of School
   Education, Secretariat, Hyderabad and others.

.. Respondents.

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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
THE HON'BLE SRI JUSTICE G.CHANDRAIAH

WRIT PETITION NO.18901 OF 2007

ORDER: (Per Hon'ble Smt. Justice T. Meena Kumari)

This is a writ petition filed by the petitioner challenging the order, dated 17.8.2007 passed in Review M.A.No.2625 of 2007 in O.A.No.7041 of 2005 by the A.P. Administrative Tribunal.

The petitioner herein is the applicant in the above O.A.

Originally, the petitioner-applicant filed the above O.A., seeking to set aside the proceedings in Rc.No.530-A1/03(2), dated 8.4.2005 of the 3rd respondent and to direct the respondents to permit the applicant to participate in the counseling to be held on 6.10.2005. The Tribunal having observed that the applicant has come under the zone of consideration and hence, she was provisionally selected and the rejection of her claim for appointment as local candidate in East Godavari District is not in accordance with the Rules, disposed of the O.A., directing the respondents to treat the case of the applicant afresh and pass appropriate orders. While so, the Department filed the Review M.A., on the ground that the applicant studied in SVGC High School, Ubalanka, East Godavari District, which is an unrecognized institution and as per the Presidential Order, the school should have been a recognized institution and the proviso added to the said Rule 7(a)(1) and (2) has escaped from the attention of the Tribunal. The tribunal having observed that the applicant has studied in SVGC High School, Ubalanka, East Godavari District, which is not a recognized institution and inadvertently, the said rule was not taken into consideration while disposing of the OA, allowed the review M.A. and

consequently, dismissed the O.A. Having aggrieved by the same, the present writ petition has been filed by the applicant.

Heard the learned Counsel appearing for the petitioner as well as the learned Government Pleader for Services and perused the material available on record.

A perusal of the record makes it clear that after disposal of the O.A., the respondents have filed Rev.M.A.2625 of 2007 seeking to review the order of the tribunal passed in O.A.No:7041 of 2007 on 6.3.2007 along with M.A.No:1962 of 2007 seeking to condone the delay of 80 days in filing the review application on the ground that the delay in filing review application is on account of administrative reasons and therefore, the delay was occurred.

At this stage, the main thrust of the argument of the learned counsel for the applicant is that the review application, if any, shall have to be filed within 30 days from the date of the order, but the present review application has been filed after 80 days and under Rule 19 of the Administrative Tribunal (Procedure) Rules, 1989 the tribunal has no power, whatsoever to condone the delay and that since the review application has been filed beyond the statutory period of 30 days from the date of the order, the tribunal is not justified in entertaining the delay condone application and therefore, the order impugned herein is liable to be set aside. In support of his contention, he relied on a full bench decision of this Court reported in G.NARASIMHARAO V. REGIONAL JOINT DIRECTOR OF SCHOOL EDUCATION ([1]) wherein it is held that the tribunal will not have jurisdiction to condone the delay by taking and assistance of either section 21 (3) of the Act or section 29 (2) of the Limitation Act.

On the other hand, the learned G.P. for Services-I has tried to convince that since there was an error apparent on the face of the

record, the tribunal is justified in rectifying the same while passing the order impugned and therefore, the order impugned does not suffer from any legal infirmity or irregularity.

In the present facts and circumstances of the case and in the light of the provisions of rule 19 of the Administrative Tribunal (Procedure) Rules and in view of the fact that the present review application has been filed beyond the period of limitation, We feel that the tribunal has no power to condone the delay of 80 days and consequently, the order impugned herein is liable to be set aside.

Accordingly, this writ petition is allowed setting aside the order impugned. No order as to costs.

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Justice T. Meena Kumari

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Justice G.Chandraiah

Date: 27.9.2007
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THE HON'BLE SMT. JUSTICE T.MEENA KUMARI
&
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WRIT PETITION NO.18901 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

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Dated: 27.09.2007

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[1] 2005(2) ALT 469 (FB)